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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 RIKY PERASSO,

11 Plaintiff,

12 v.

13 WASHINGTON STATE
14 DEPARTMENT OF CORRECTIONS,
MIKE GLEASON, WAYMAN,
15 STROPE,

16 Defendants.

CASE NO. 3:18-CV-05934-BHS-DWC

ORDER

17 Plaintiff Riky Perasso, who is represented by counsel, filed this civil rights Complaint
18 pursuant to 42 U.S.C. § 1983. *See* Dkt. 1. Currently before the Court are Defendants' Motion for
19 a Protective Order and Plaintiff's Motion to Compel Discovery. Dkt. 23, 26. After consideration
20 of the record, the Motion for a Protective Order (Dkt. 23) and the Motion to Compel (Dkt. 26)
21 are granted.

22 **I. Background**

23 Plaintiff, an inmate within the Washington State Department of Corrections ("DOC"),
24 alleges Defendants violated Plaintiff's constitutional rights and state law by failing to protect him

1 when he was assaulted by three inmates at Stafford Creek Correctional Center (“SCCC”) on
2 October 19, 2016. Dkt. 1-2. On April 18, 2019, Plaintiff filed the Motion to Compel requesting
3 the Court order Defendants to produce a copy of any and all videos that were generated or
4 created on October 19, 2016 that contain images of Plaintiff or any individual believed to have
5 attacked Plaintiff. Dkt. 26. On the same day, April 18, 2019, Defendants filed the Motion for
6 Protective Order requesting the Court enter a protective order exempting Defendants from
7 producing video surveillance footage from “fixed camera emplacements” within the prison
8 facility (“video evidence”) to Plaintiff. Dkt. 23. Defendants do not assert the video evidence is
9 not relevant; rather, Defendants argue producing the video evidence to an active inmate would
10 seriously compromise prison security. *Id.*

11 **II. Discussion**

12 At issue is whether video evidence should be produced and, if so, whether a protective
13 order should be entered restricting dissemination of the video evidence.

14 A party may obtain discovery regarding any nonprivileged information that is relevant to
15 any claim or defense in his or her case. Fed. R. Civ. P. 26(b)(1). Once the party seeking discovery
16 has established that the request meets this relevancy requirement, “the party opposing discovery
17 has the burden of showing that the discovery should be prohibited, and the burden of clarifying,
18 explaining or supporting its objections.” *Bryant v. Ochoa*, 2009 WL 1390794, at *1 (S.D. Cal. May
19 14, 2009). When a party believes the responses to his discovery requests are incomplete, or contain
20 unfounded objections, he may move the court for an order compelling disclosure.

21 The Court has broad discretionary powers to control discovery. *Little v. City of Seattle*,
22 863 F.2d 681, 685 (9th Cir. 1988). Upon showing of good cause, the Court may deny or limit
23 discovery “to protect a party or person from annoyance, embarrassment, oppression, or undue
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1 | burden or expense[.]” Fed. R. Civ. P. 26(c); *see also* *GTE Wireless, Inc. v. Qualcomm, Inc.*, 192
2 | F.R.D. 284, 285–86 (S.D. Cal. 2000). To obtain a protective order, the party resisting discovery
3 | or seeking limitations must, under Rule 26(c), show good cause for its issuance. Specifically, the
4 | moving party must make a clear showing of a particular and specific need for the order.
5 | *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975).

6 | Here, the video evidence is related only to the day of the attack and narrowed to videos
7 | that contain images of Plaintiff or anyone believed to have attacked Plaintiff. *See* Dkt. 26, p. 4;
8 | Dkt. 26-2, p. 9. The Court finds the video evidence is relevant as it may lead to admissible
9 | evidence related to the claims alleged in the Complaint. *See* Dkt. 1-2; *Survivor Media, Inc. v.*
10 | *Survivor Prods.*, 406 F.3d 625, 635 (9th Cir. 2005) (quotation marks and citation omitted)
11 | (“Relevant information for purposes of discovery is information reasonably calculated to lead to
12 | the discovery of admissible evidence.”). Therefore, Plaintiff’s Motion to Compel (Dkt. 26) is
13 | granted.

14 | The Court, however, finds a protective order is appropriate to ensure prison security. The
15 | evidence shows it is “critical that offenders, their cohorts, and visitors not know the capabilities
16 | and the limitations of the DOC’s surveillance systems” to maintain the secure and orderly
17 | operation of a prison. Dkt. 25, Herzog Dec., ¶¶ 4-5. “Providing access to recordings of DOC
18 | surveillance videos would allow others to accurately determine which areas are weak or devoid
19 | in DOC’s ability to capture identities in the aftermath of an incident or crime” and could enable
20 | others to study staff movements to identify weaknesses in security. *Id.* at ¶ 8. Further, the
21 | surveillance videos can be used by: sexual predators to prey on weaker offenders, inmates to
22 | assault other offenders, and visitors to uncover new methods to pass contraband. *Id.*
23 | “Surveillance video could also reveal the internal layout and design of a facility . . . or of specific
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1 security features.” *Id.* As Defendants have shown prison security and the orderly operation of the
2 prison is at risk if the video evidence is produced, the Court finds good cause to limit production
3 of the video evidence. *See e.g. Fourhorn v. City and County of Denver*, 261 F.R.D. 654 (D. Colo.
4 2009) (court issued a protective order which prohibited dissemination of jail policies and security
5 information noting ample case law addressing issues related to jail or prison security and safety).

6 Therefore, the Motion for a Protective Order (Dkt. 23) is granted as follows:

- 7 • Defendants shall provide Plaintiff’s counsel and staff with a reasonable
8 opportunity to view the video evidence.
- 9 • At this time, Plaintiff is prohibited from viewing the video evidence.
- 10 • The parties and their respective counsel are prohibited from disclosing, sharing,
11 transmitting, or disseminating the video evidence.
- 12 • If any party seeks to file the video evidence with the Court, the party is required
13 to file the video evidence under seal pursuant to Local Civil Rule 5(g).

14 **III. Conclusion**

15 In summation, both the Motion to Compel (Dkt. 26) and the Motion for Protective Order
16 (Dkt. 23) are granted consistent with the directives of this Order.

17 Dated this 20th day of May, 2019.

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20 David W. Christel
21 United States Magistrate Judge
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